

## **SUBCOMMITTEE NO. 4**

## **Agenda**

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**Senator Richard Roth, Chair**  
**Senator Lois Wolk**  
**Senator Tom Berryhill**



**Thursday, May 9, 2013**  
**9:30 a.m. or Upon Adjournment of Session**  
**Room 112**

**Consultant: Brady Van Engelen**  
**Agenda Part B**

### **Item Number and Title**

0845	California Department of Insurance
0890	California Secretary of State
1701	Department of Business Oversight
2240	Department of Housing and Community Development
7760	Department of General Services
8940	California Military Department

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## Department of Insurance

### Issue 1 – Amendment to Budget Bill

**Spring Finance Letter:** The 2013-14 Governor's budget includes a request for an increase of \$218,000 (Insurance Fund) in 2013-14 to address workload associated with AB 1083 (Chapter 852, Statutes of 2012) and SB 951 (Chapter 866, Statutes of 2012).

**Background:** AB 1083 gives the Department of Insurance (CDI) broad authority for emergency rulemaking in the small group market, for both grandfathered and non-grandfathered health insurance products. According to the Department of Insurance, the resources are necessary because the Department of Insurance currently has no additional capacity to absorb rulemaking procedures. To address the need for additional rulemaking capacity, the Department of Insurance is requesting \$79,000 and one six-month limited-term position.

SB 951 has added a need for additional policy form review responsibilities and a necessity to promulgate emergency rulemaking regulations. To address the additional workload, the Department of Insurance has requested an additional \$139,000 in expenditure authority from the Insurance Fund to promulgate regulations related to essential health benefit coverage, which was a requirement of SB 951.

### Issue 2 – Health Insurance Reform

**Governor's Budget Request:** The California Department of Insurance (CDI) is requesting an increase in special fund expenditure authority of \$865,000 in fiscal year 2013-14 and 2014-15 to address the ongoing workload associated with health insurance reform.

**Background:** The Patient Protection Act and Affordable Care Act (PPACA) was enacted in 2010. Many of the provisions in federal law have already come into effect, while most of the components, including the health insurance exchange, will become operational on January 1, 2014. PPACA will have a significant impact on the regulatory requirements of CDI as well as changes to the health insurance marketplace in California.

### Issue 3 – Health Benefit Exchange

**Governor's Budget Request:** The California Department of Insurance (CDI) is requesting an increase of special fund authority of \$834,000 to fund seven attorney positions (six limited-term, one permanent) to support implementation activities, policy form review, and enforcement actions related to the California Health Benefit Exchange (Exchange).

**Background:** SB 900 (Chapter 659, Statutes of 2010) created the Health Benefit Exchange, which is an independent public entity. The measure required that the Insurance Commissioner, in coordination with the Director of the Department of Managed Health Care, to review the federal Health and Human Services internet portal, prior to January 1, 2015, to determine whether it provides sufficient information to facilitate fair and affirmative marketing of all individual and small employer health insurance, particularly outside of the Exchange.

AB 1602 (Chapter 655, Statutes of 2010) enacted the California Patient Protection and Affordable Care Act (PPACA), and provided the Exchange with the operation authority, as well as the authority to implement the Exchange and navigator provisions of the Patient Protection Act by 2014.

#### **Issue 4 – California Earthquake Authority**

**Governor's Budget Request:** The Administration is requesting trailer bill language to be adopted that will remove the current cap of 25 civil service positions within the California Earthquake Authority (Earthquake Authority).

**Background:** The Earthquake Authority was created in 1996 by the State Legislature. The Earthquake Authority serves as a privately funded and publicly managed entity that writes earthquake policies to California's residents. Section 10089.7 of the Insurance Code caps the number of civil service positions within the Earthquake Authority at 25. However, the workload required of the Earthquake Authority often far exceeds the Earthquake Authority's personnel capacity and the Earthquake Authority is forced to rely on a more costly outside consulting process. As noted earlier, the fund source for the Earthquake Authority is derived primarily from private entities and it may reduce overall operating costs of the Earthquake Authority by allowing a greater amount of work to be conducted in-house rather than via external consultants.

### **Secretary of State**

#### **Issue 5 – Victims of Corporate Fraud Fund**

**Governor's Budget Request:** The Governor's budget includes a request for one permanent position and Business Fees Fund spending authority of \$123,000 in the budget year, and ongoing expenditure authority of the Business Fees Fund of \$98,000.

**Background:** SB 1058 (Chapter 564, Statutes of 2012) provided a statutory framework for the Secretary of State's (SOS) management of the Victims of Corporate Fraud Compensation Fund (VCFCF), by codifying certain existing regulations promulgated by the SOS to administer the VCFCF, codifying changes to other existing regulations promulgated by the SOS, and adding new statutory language to facilitate the approval of valid claims from the VCFCF.

### **Department of Business Oversight**

#### **Issue 6 – Extension of Consumer Services Limited-Term Positions**

**Governor's Budget Request:** The Governor's 2013-14 Budget includes a request for the extension of three two-year limited-term positions within the Consumer Services Program of the Department of Business Oversight.

**Background:** The 2011-12 budget provided the Department of Financial Institutions (Department) with three two-year limited-term positions to address the growing number of inquiries derived from a slowing economic climate. The complaints received by the Department vary from inquiries related to overdraft fees to more complex inquiries related to mortgage loans and modifications. According to the department, the overall number of inquiries and complaints that have been received have increased by approximately 370 percent.

The resources provided in the 2011-12 Budget were a reflection of the increased workload. The department projects the number of inquiries to continue to increase in the budget year and have requested that the expiring limited-term resources be extended by another two years. The requested positions will be funded through the Financial Institutions Fund and Credit Union Fund.

### **Issue 7 - Implementation of the Homeowner Bill of Rights**

**Governor's Budget Request:** The Governor's 2013-14 Budget includes a request for six positions within the Department of Corporations Lender-Fiduciary Program and \$911,000 (State Corporations Fund) to implement and enforce provisions of the Homeowner Bill of Rights in California pursuant to SB 900 and AB 278 (Chapter 87, Statutes of 2012 & Chapter 86 Statutes of 2012).

**Background:** In accordance with the California Finance Lenders Law (CFL), the Department of Corporations is responsible for the licensing and regulation of consumer finance lenders, mortgage brokers, and mortgage loan originators. The department is also responsible for the regulation of mortgage bankers, mortgage servicers, and mortgage loan originators under the California Residential Mortgage Lending Act (CRMLA). The department estimates that nearly 35 percent of the residential mortgage loans in the state are serviced by a licensee under either the California Residential Mortgage Lending Act or the California Finance Lenders Law.

SB 900 and AB 278 modified several components of California's non-judicial foreclosure process to require various procedural requirements before a residential mortgage loan servicer can proceed with a foreclosure. According to the Department of Corporations, the additional resources have been requested to meet the increased workload associated with the reforms of regulatory examinations, and the resources will also serve to provide an adequate level of industry regulation and consumer protection in the state.

The foreclosure legislation set forth different requirements for companies with more than 175 foreclosures per year and with companies that have less than 175 foreclosures per year. According to the department, there were 61 mortgage servicers licensed under CFL and 80 licensed under the CRMLA. The foreclosure legislation resulted in an increase in the need for examinations. Five of the six requested positions are proposed to be utilized to address the increased workload requirements stemming from the foreclosure legislation. The sixth position will be a staff counsel who will assist in interpreting regulatory notices, rulemaking, and conduct external outreach, as needed.

## Department of Housing and Community Development

### Issue 8 – Housing-Related Parks Program

**Spring Finance Letter:** The Governor's budget proposes a permanent baseline Local Assistance appropriation of \$25 million for new awards, pursuant to Proposition 1C Housing Related Parks Program (HRPP).

**Background:** In 2006, voters approved Proposition 1C, authorizing the largest housing bond in the nation. The new bond measure authorized an additional \$2.85 billion, most of which was used to support affordable housing efforts. The Housing-Related Parks Program, funded through Proposition 1C, was designed to encourage the construction of low-income housing units by providing funding to cities and counties that can be used for the development and renovation of parks for each qualified housing permit they issue. As of December 31, 2012, there is an estimated \$166 million available for award.

While voters approved Proposition 1C in November 2006, the bond required the Legislature to adopt subsequent legislation to implement the Housing-Related Parks Program. AB 2494 (Chapter 641, Statutes of 2008) established the Housing-Related Parks Program, under the administration of the Department of Housing and Community Development.

It was originally anticipated that HCD would make roughly \$25 million in awards per year starting with awards for the 2009 calendar year. However, local governments only qualified for \$8.8 million in awards in 2010. HCD issued a Notice of Funding Availability (NOFA) again for the 2011 calendar year, and local governments qualified for only \$11.3 million. More recently, the Legislature has made an attempt to streamline the awards process of the Housing-Related Parks Program.

## Department of General Services

### Issue 9 – Real Estate Services: High Speed Rail

**Governor's Budget:** The Governor's Budget includes a request for a permanent augmentation of \$648,000 and five personnel years in order to assist the California High-Speed Rail Authority with real estate and legal services workload associated with property acquisition.

**Background:** On July 6, 2012, the Legislature approved construction financing for the initial stage of the California High Speed Rail project. The segment is to be completed by 2018 and completion of all four phases will be done by 2028. The Real Estate Services Division within the Department of General Services (DGS) has been tasked with assisting the California High-Speed Rail Authority with the transaction review, appraisal review, setting of just compensation, property acquisition review, relocation assistance plan review, state-owned leasing services, staff support for the State Public Works Board approval process, escrow closing process, resolution of title process, transfers of jurisdiction, easement, acquisition and granting, facilitating utility relocations, project consultation/coordination, Statewide Property Inventory

reporting, disposition of excess property and legal consultation support from the DGS Office of Legal Services.

**LAO Recommendation:** The LAO has noted that the workload associated with this project is temporary. The process of acquiring Right-of-Way began in the current year and will continue through the 2015-16 Budget Year. LAO recommend that the workload associated with these positions be adjusted to two-year limited-term.

**Staff Recommendation:** Adopt LAO recommendation, to provide Real Estate Services with five two-year limited-term positions to the support California High-Speed Rail.

## California Military Department

### Issue 10 – Behavioral Health Action Team

**Governor's Budget Request:** The Governor's budget includes a request for five positions in order to to hire needed behavioral health officers. The Military Department is also requesting an \$815,000 increase in expenditure authority to fund the behavioral health officer positions.

**Background:** Currently, the Military Department employs three permanent positions and two temporary positions to provide behavioral health services to the 21,262 members of the California National Guard. The Military Department is requesting to convert the two temporary positions to permanent status and hire an additional three licensed behavioral health staff. This will provide the Military Department with a total of eight licensed behavioral health staff. The Military Department estimates that the additional licensed staff will be able to provide a 75 percent increase in the Military Department's behavioral health capability statewide.

**0845 CALIFORNIA DEPARTMENT OF INSURANCE (CDI)****Issue 1 – Health Premium Rate Review**

**Governor’s Budget Request:** The CDI is requesting a special fund expenditure authority increase of \$1.2 million (Insurance Fund) in Fiscal Year 2013-14, and ongoing, and to convert nine limited-term positions to permanent to address workload associated with health insurance rate filings.

**Background:** SB 1163 (Chapter 661, Statutes of 2010) began the process of aligning California’s laws with the federal health care reform. The passage of SB 1163 defined many of the roles that the CDI would have to take to implement health care reform. In Fiscal Year 2011-12, the Legislature approved nine two-year limited-term positions and one one-year limited-term position to address the workload associated with the review of health insurance rate filings and one-time rulemaking, as required by SB 1163.

The CDI has also utilized approximately \$2.5 million in federal funding to assist with the implementation of health care reform. However, the use of the federal funds is limited to carrying out specific requirements required by per each federal grant, and funding is limited to four years.

**Staff Comment:** Upon review of available federal moneys CDI has brought to staff’s attention that CDI’s expenditure authority could be reduced by \$576,000 in 2013-14. This will require an increase in federal fund authority of \$136,000 in Fiscal Year 2013-14. The second grant provided to CDI does not expire until September 30, 2014.

**Staff Recommendation:** Augment Federal Trust Fund Authority by an additional \$136,000 in Fiscal Year 2013-14. Decrease Insurance Fund expenditure authority by \$576,000 in Fiscal Year 2013-14.

**Vote:**



**1111 DEPARTMENT OF CONSUMER AFFAIRS****Issue 1 – Bureau of Private Postsecondary Education – Staffing Augmentation**

**Spring Finance Letter:** The Administration, via a spring Finance Letter, has submitted a request to augment funding for the Bureau of Private Postsecondary Education (Bureau) by \$853,000 in Fiscal Year 2013-14, and budget bill language that will temporarily suspend the maximum statutory limit of six months reserve in the fund balance for one year, and a proposed trailer bill language that will ensure that accredited institutions that voluntarily become licensed with the Bureau surrender their exemption status.

**Background:** The Bureau was created by the Private Postsecondary Act of 2009 (Chapter 310, Statutes of 2009) and became operational on January 1, 2010. The Bureau's primary role is to provide oversight and regulation of California's private postsecondary education institutions. The Bureau estimates that they currently provide oversight to 1,350 main locations and 450 branch locations.

Upon passage of the Private Postsecondary Act of 2009, the 63 authorized positions were allocated under the assumption that the workload would be similar to the Bureau's predecessor, The Bureau for Private Postsecondary and Vocational Education, which sunset in 2007. The workload estimates did not account for the number of non-accredited applicants. Accreditation is generally a quality assurance provided by a non-governmental agency. Licensing is a function performed by the Bureau that is separate and distinct from accreditation, and issued by the Bureau. The Bureau's primary focus in the issuance of a license and the approval process is to ensure that certain consumer protections are in place at each institution.

According to the Bureau, a significant licensing backlog remains. Institutions submitting an application may have to wait up to eight months for the Bureau to begin the review process. However, once the review process has begun, the amount of time required for an application to be processed by Bureau staff is approximately two weeks. The Bureau has cited a high vacancy rate as part of the reason for the growing backlog. The Bureau was unable to fill all vacant positions until May 2012.

The Bureau projects revenues for Fiscal Year 2013-14 to total approximately \$11 million and expenditures for the year are expected to total \$8.7 million. The Bureau's projected fund balance for fiscal year 2013-14 is projected to be \$13.3 million, which is approximately an 18 reserve. The Bureau has attributed the large fund balance to the fact they were collecting fees well in advance of filling all of the 63 authorized positions within the Bureau. Due to current statute, California Education Code section § 94930, the Bureau cannot have a fund reserve greater than six months. The Bureau is seeking a one-year exemption to the fund balance cap, which will afford the Bureau the time to assess and right size the fee structure through the regulatory process. The requested budget bill language reads as follows:

Add the following provision to Item 1111-002-0305

*2. The Private Postsecondary Education Administration fund reserve limit of six months of operating expenses pursuant to Education Code section 94930 (b) shall be suspended until June 30, 2014.*

This request also includes trailer bill language that would authorize an institution currently exempt from the Bureau's oversight to waive their exempt status and to voluntarily opt into the Bureau's oversight, to comply with federal regulations to ensure that students at the institution remain eligible for federal financial aid.

The requested trailer bill language is in response to recently adopted federal regulations that will require institutions participating in federal financial aid programs to be approved by the state in which they operate. The proposed trailer bill language will provide an opportunity for an institution that voluntarily surrenders its exemption status to receive a license from the Bureau.

**Staff Comment:** Staff notes that the eight requested positions will adequately address the workload requirements associated with the current backlog and the forecasted workload for the budget year. However, the Bureau has noted that there may be additional workload requirements stemming from the statutory changes made by the proposed trailer bill. At this time, it is uncertain what level of workload-related impact this will have on the Bureau, as only a limited number of institutions have signaled their intent to submit an application for licensure. The Bureau has noted that additional resource requirements needed due to the statutory changes will be addressed in a future Budget Change Proposal.

The Legislative Analyst's Office (LAO) has noted that the staffing request seems reasonable, and has not raised any concern with the proposed trailer bill or budget bill language. However, the LAO has suggested that incorporating an annual update on the application backlog could provide the Legislature with useful information in the future. This suggestion is consistent with previous actions taken by the Legislature to address backlog-related issues at other state entities and should be considered by the subcommittee.

**Staff Recommendation:** Approve requested funds per spring finance letter, approve budget bill language and adopt placeholder trailer bill language. Additionally, adopt Supplemental Reporting Language to request annual updates on the status of the backlog at the BPPE.

**Vote:**